IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.Appeal Nos. 131 & 246 of 2003.

Judgement reserved on: 28.11.2006

Date of decision: 11.1.2007.

(For title, see reverse)

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.
The Hon'ble Mr. Justice Dev Darshan Sud, Judge.
Whether approved for reporting?[1]
For the Appellants :
(See reverse)
For the Respondents :

Surjit Singh, Judge.

Through this common judgement, two appeals one filed by Satish Kumar, who has been convicted of offence, under Section 302 IPC and another by Anil alias Neelu, who has been convicted of offence under Section 307 IPC, are being disposed of, because the appellants, in both the appeals, have been convicted and sentenced for the aforesaid offences at one trial by the same judgement.

2. Facts relevant for the disposal of the appeals may be noticed. The two appellants alongwith one Ashwani, were sent up for trial for offences, punishable under Sections 302 and 307 read with 34 IPC, for allegedly committing the murder of one Gunny Mohammad and making murderous assault on one Rashid

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Whether the reporters of the local papers may be allowed to see the Judgment?

Mohammad. Prosecution version was as follows. PW 1 Suresh Kumar was employed as driver with M/s Jagan Nath & Sons of Ghumarwin. On 21.10.2001, around 8 PM when he was returning to his house in village Takehra, after finishing his job for the day, Ashwani Kumar accused (who has been acquitted) met him. Suresh Kumar asked him why he had been accosting people at odd hours. Upon that Ashwani Kumar proceeded towards his own house. Soon thereafter, he reappeared with 4-5 other boys including appellants Satish and Neelu from behind and overpowered Suresh Kumar and gave beating to him. On the next following day, i.e. 22.10.2001, around 5 PM when Suresh Kumar was present at the premises of his employer at Ghumarwin, accused Ashwani Kumar and appellants Satish Kumar and Neelu went to him and offered apology for the incident of the previous evening. The differences were resolved with the intervention of some persons, including one Relu Ram and one Chet Ram. Thereafter accused Ashwani Kumar and Suresh Kumar left. Around 8.30 P.M. when Suresh Kumar was present outside the business premises of his employer at Ghumarwin, accused Ashwani and both the appellants reappeared. Ashwani Kumar twisted his arm and threw him on the ground. Suresh Kumar raised alarm, upon which deceased Gunny Mohammad, who was employed as part-time Munshi with M/s Jagan Nath and sons and one Rashid Mohammad, who was present in the store of M/s Jagan Nath & sons, came to his rescue. Deceased Gunny Mohammad caught hold of Ashwani Kumar and tried to pull him towards himself in an effort to get Suresh Kumar released from his grip. Ashwani Kumar accused exhorted appellant

Satish Kumar to take out knife and stab Gunny Mohammad. Satish Kumar then took out a knife from his pocket and dealt two blows, one on the side of chest and another on the axillary region of Gunny Mohammad, as a result of which he fell on the ground with bleeding wounds and soon thereafter lost consciousness. When Rashid Mohammad tried to rescue Gunny Mohammad, appellant Satish Kumar tried to hit with the knife, but he escaped by ducking. Still the tip of the knife caused a linear injury on his back. In the meanwhile, appellant Anil Kumar alias Neelu picked up an iron bar lying close by and dealt a blow thereof on the abdomen of Rashid Mohammad, which caused a serious wound. Rashid Mohammad on sustaining the aforesaid injury rushed towards the hospital at Ghumarwin. On hearing hue and cry of Gunny Mohammad and Rashid Mohammad, Jagan Nath, proprietor of M/s Jagan Nath and sons and one Ajay Mahajan, who was present with him in the store came out. They saw the incident and also the appellants and their accomplice Ashwani Kumar running away from the scene of occurrence. One Rajinder Kumar also reached the spot. Suresh Kumar, Rajinder Kumar and the employer of Suresh Kumar chased the appellants and their accomplice Ashwani Kumar with a view to overpowering them, but they managed to escape.

3. Gunny Mohammad, who was still alive was rushed to the hospital at Ghumarwin. Rashid Mohammad had already reached the hospital on his own. The doctor at Civil Hospital, Ghumarwin, after giving the first aid referred both Gunny Mohammad and Rashid Mohammad to Zonal Hospital, Bilaspur, where Gunny Mohammad

succumbed to his injuries after a short while, while Rashid Mohammad was operated upon on the next following day with a view to saving his life.

4. Police was telephonically informed by the Medical Officer, Civil Hospital, Ghumarwin that injured Gunny Mohammad was brought and Rashid Mohammad himself reached the hospital with injuries. The police entered the information in the Rojnamcha. The S.H.O., Police Station, Ghumarwin, on getting that information, rushed to Civil Hospital, Ghumarwin. On his reaching there, he came to know that deceased Gunny Mohammad and injured Rashid Mohammad had already been taken to Zonal Hospital, Bilaspur, on reference by the Medical Officer. So he went to Zonal Hospital, Bilaspur. The doctor attending upon Rashid Mohammad told the S.H.O. that he was not fit to make statement. S.H.O. then recorded the statement of PW 1 Suresh Kumar, under Section 154, Cr.P.C. and sent the same to the Police Station for formal registration of the case. On the basis of that statement, case was formally registered, under Sections 302 and 307 IPC, read with Section 34 IPC against the appellants and their accomplice Ashwani Kumar. S.H.O. Hemant Kumar PW 20 conducted inquest and then got the post mortem of the dead body of Gunny Mohammad conducted. Following ante-mortem injuries were noticed on the dead body by PW 7, Dr. N.K. Sankhyan, who conducted the post mortem:-

> 1. There was stitched wound with one stitch on front and right side of chest and was 10 cms below the right nipple. After removing the stitch, blood fluid started coming out from the wound, the wound was punctured

perforated wound with clean cut edges and bevelled margins. The wound was 3 cm in length and with maximum breadth in the centre was 1 cms, it was slit shaped and was obliquely placed and was directing from front to back and above downward, lateral to medial side as shown in the diagram mentioned in the postmortem report.

The said wound was caused by sharp edged weapon either with bilateral pointed ends single edged weapon or with double edged weapon after perforating/piercing skin, subcutaneous tissues, with an oval hole 3cmx2cms in the thoracic muscles in between 6^{th} and 7^{th} ribs on right side, pleurae right side, liver right side after diaphragm and capsule of liver then into omentum and capsule of right kidney through and through, 2 cms dep into right kidney from supero-lateral side.

Right lung was collapsed and right pleural cavity was having about 200 ml. of blood fluid. Peritoneal cavity was full of blood fluid. All the above said perforated organs and the right kidney were grossly contused.

2. There was horizontally placed incised wound 3cmx0.5cmx0.5 cm in between left posterior axillary line and lumber spine, 7 cms above the iliac crest with clean cut well defined inverted edges, directing from above downwards, clotted blood was present in and below the said wound.

Scalp, skull and vertebrae, membrances- brain and spinal cord were normal.

5. The doctor opined that death occurred due to cardio-respiratory failure as a result of hypovolumic shock, collapse of right lung, injury to diaphragm, liver and kidney right side. According to

him probable time lag between the sustenance of the injuries and the death was a few minutes to a few hours and between death and post mortem it was six hours to 18 hours. The post mortem was conducted on 23.10.2001 at 11.00 A.M.

6. PW 8 Dr. Surinder Singh, who conducted the medico-legal examination of Gunny Mohammad, when he was alive as also of Rashid Mohammad at C.H.C., Ghumarwin on 22.10.2001, observed the following injuries on the person of Gunny Mohammad:-

1. Sharp edged wound present in the right infra mammary region on the right side of chest. Margins everted and tapering of wound present. Fresh bleeding from the wound present. The bleeding was profuse. Dimension about 5 cm and also deep

2. Sharp edged wound present in the left loin region on lateral aspect about 3.5 cm in dimension. Subcutaneous fat present at the site of injury. Margins everted and tapering also present. Bleeding from the wound present.

On examination there was profuse bleeding from the chest injury i.e. injury No.1 and bleeding from injury No.2 was also present but not so profuse. Pulse radial-absent, B.P. un-recordable. Extremities cold and clammy. Profuse sweating present, not responding to verbal commands.

7. Following injuries were observed on the person of Rashid Mohammad by the same doctor:-

1. Rounded injury (crushed) present in the right iliac fossa region. Bleeding from the wound present. Dimension about 1½ cm. in diameter. Fat tissue also

present in the injury. Swelling around the injury present. Tenderness present.

8. The doctor expressed the opinion that the injuries found on the person of Gunny Mohammad could have been caused by means of a knife while injuries noticed on the person of Rashid Mohammad could have been caused by means of iron bar (Ex. P-12).

9. Appellants and their accomplice Ashwani Kumar were charged with offences, under Sections 302 and 307 read with Section 34 IPC. On their pleading not guilty, they were put on trial. Prosecution examined 20 witnesses, to bring the charge home to the accused. Appellants and their accomplice, were examined, under Section 313, Cr.P.C. They denied their involvement in the commission of the crime and raised no specific plea of defence. The trial court concluded that there was no evidence of meeting of the minds of the two appellants and their accomplice Ashwani Kumar, for the commission of the offences, and hence Section 34 IPC, was not attracted. The trial court held that each of the three persons put on trial, were liable for their individual acts. Appellant, Satish Kumar, was held guilty of committing the murder of Gunny Mohammad on account of his having inflicted two stab injuries on his chest and appellant Anil Kumar alias Neelu was held guilty of causing injury dangerous to life to Rashid Mohammad PW 3. Their accomplice Ashwani Kumar, was acquitted with the finding that he did not commit any act.

10. Learned counsel representing the appellants made the following submissions:-

(i) Time of the occurrence, which was initially recorded as 7.30 PM, has been changed to 8.30 PM, in the statement, under Section 154, Cr.P.C. Ex. PW 1/A, in the formal FIR Ex. PW 15/B and inquest report forms Ex. PW 1/B and Ex. PW 1/C and no plausible explanation for this change has been offered;

(ii) The aforesaid change regarding time of occurrence in the aforesaid documents, had apparently been effected to make it believe that Rashid Mohammad PW 3 was present on the spot, though as a matter of fact, he was not present at the initially recorded time in the aforesaid documents, i.e. 7.30 PM, because at that time he was present at the business premises of his employer M/s Arbind Sales Corporation, which are at a considerable distance from the place of alleged occurrence;

(iii) Time and date of recording the FIR from 1.00 AM on 23.10.2001 has been changed to 11.20 P.M. on 22.10.2001 by overwriting and also the time of receipt of information at the Police Station has been changed from 1.00 A.M. to 9.00 P.M. in the FIR and there is no explanation for the same.

(iv) There is no evidence, as regards the genesis of the incident and this fact also renders the prosecution version unbelievable

(v) Testimony of Suresh Kumar PW 1, Rashid Mohammad PW 3 and Rajinder Kumar PW 5, who claim to be the eye witnesses is unbelievable,

being self contradictory, contradictory to each other and inconsistent;

(vi). Evidence regarding recovery of the iron strap, allegedly at the instance of appellant Anil Kumar, is concocted.

(vii) There had been a fight between two groups, involving about 15 to 20 persons and in that fight Gunny Mohammad died and Rashid Mohammad sustained injury and it being dark and also it being a fight for all, it was not possible for anybody to say, who gave the fatal blows to Gunny Mohammad and injured Rashid Mohammad. In any case, the crime alleged to have been committed by Satish Kumar, was not punishable, under Section 302 IPC, but only under Section 304, Part II, IPC, at the most, and similarly the crime allegedly committed by Anil Kumar alias Neelu, was not punishable, under Section 307 IPC, but under Section 308 IPC, as the acts attributed to two appellants, had not been committed after pre-meditation or in a preplanned manner, but in a sudden fight.

11. We have given deep thought to the aforesaid submissions made on behalf of the appellants. It is true that the time of the occurrence, as recorded in the statement, under Section 154, Cr.P.C. Ex.PW 1/A and inquest report forms Ex. PW 1/B and Ex.PW 1/C, has been changed from 7.30 P.M. to 8.30 P.M. and explanation offered by the witnesses, PW 1 Suresh Kumar, PW 15 Ram Lal Thakur and PW 20 Hemant Kumar, who were reexamined by this court to seek explanation about the change in the time, is not only not

plausible but a bundle of lies, but the question is, should this fact be stretched so far as to doubt the entire prosecution version, as canvassed by the learned counsel during the course of the hearing. It was submitted that the timing had been changed to show that Rashid Mohammad PW 3, to whom an injury dangerous to life had allegedly been caused was present at the spot and hence he was an eye witness, though he in fact could not have been there at that time, because of his presence at his employer's place, which is at a considerable distance. It is true that the evidence on record does suggest that Rashid Mohammad PW 3 left his employer's place after 7.30 P.M., the time of occurrence originally recorded in the aforesaid documents, including the FIR and therefore, he could not have been there at that time, but the submission that the time has been changed to show his presence on the spot, so as to make his version as an eye witness believable, cannot be accepted for the simple reason that the witness was himself victim of the murderous assault, in the same incident, in which Gunny Mohammad was stabbed to death. It is nobody's case that Rashid Mohammad PW 3 received the injury in some other incident. Presence of Rashid Mohammad PW 3 is established by the unchallenged testimony of PW 4 Jagan Nath, the shopkeeper in front of whose business premises the incident took place. The witness, though cross-examined by the prosecution, stated quite categorically in examination-in-chief that Rashid Mohammad was at his shop when Suresh Kumar PW 1 raised alarm and that he (Rashid Mohammad) accompanied by deceased Gunny Mohammad rushed out on hearing the cries of Suresh Kumar. No cross-

examination qua this part of the statement was directed. It is also not the case of the appellants that Rashid Mohammad had any axe to grind by falsely implicating them. May be that in fact the time of the incident was 8.30 P.M., but the police people recorded it as 7.30 PM in the FIR and other documents, referred to hereinabove and later on when this mistake was realized, the time was changed, but the Investigating Officer and other police officials could not have admitted this position when called upon to explain for the obvious reason that the admission would have landed them in trouble for changing the record of investigation of a case pertaining to serious offences of murder and attempt to murder.

12. Coming to submission (iii) we do agree with the submission that the time and date of recording of the FIR and also the time of receipt of information at the Police Station have been changed by overwriting, in the formal FIR, but in the absence of any specific evidence, a presumption can not be drawn that the investigation has not been conducted in a fair manner or that there has been some hanky panky, especially when, as noticed hereinabove, while dealing with submissions (i) and (ii), one of the eye witnesses Rashid Mohammad PW 3 himself sustained an injury dangerous to life in the same incident and he has no motive to falsely implicate the appellants or to help the real culprits. As a matter of fact, a normal person, who is a victim of murderous assault would not side with the actual assailants and falsely implicate innocent person(s). The only presumption that can be drawn from this fact is that the police has messed with the record, for the reasons best known to it.

13. Learned counsel representing appellant Satish Kumar urged with a great deal of vehemence that the very genesis of the incident had not been proved and this made the prosecution version highly doubtful. He drew the attention of the court to the testimony of PW 1 Suresh Kumar. This witness stated that on 21.10.2001 around 8 P.M. when he was on way to his house, Ashwani Kumar (acquitted accused) met him at Kiari and he (the witness) questioned him (Ashwani Kumar) why he intercepted the people at odd hours, upon which Ashwani Kumar denied the allegation. He further stated that when he proceeded in the direction of his house and had covered some distance, said Ashwani Kumar and the present appellants and two other persons, who were strangers to him, came from behind and overpowered him and roughed him up. He further stated that on the next following day, i.e. on 22.10.2001 around 5 P.M. said Ashwani Kumar and the present appellants visited the business premises of M/s Jagan Nath and Sons, where he was employed those days as driver and apologized for the incident of the previous evening and with the intervention of several persons, including Relu Ram (PW 2) and Chet Ram, there was patch up and thereafter Ashwani Kumar and the appellants left the place. He further stated that after around 8.30 P.M. on the same evening said Ashwani Kumar and the present appellants came to the spot, which is located in front of the business premises of M/s Jagan Nath & sons and one of them namely Ashwani Kumar caught hold of him and when he raised alarm Gunny Mohammad and Rashid Mohammad, who were present in the shop of Jagan Nath, came to his rescue and when Gunny Mohammad was

pulling Ashwani Kumar apart to rescue him from his grip, Ashwani Kumar asked appellant Satish Kumar to take out the knife, upon which Satish Kumar took out the knife and inflicted two blows, one on each side of the chest of Gunny Mohammad.

14. Learned counsel urged that there was no evidence except the bald statement of Suresh Kumar PW 1 regarding the incident of previous evening, though as per the earliest version given to the police by Suresh Kumar, vide statement Ex. PW 1/A, he was accompanied by Ajay Kumar Mahajan when that incident took place. The submission is liable to be rejected. Prosecution examined a witness named Relu Ram (PW 2), who stated that on 22.10.2001, around 6 P.M. there had been a patch up between Suresh Kumar and the appellants and their accomplice Ashwani Kumar in respect of the incident of previous evening. Not only this that this part of the statement of Relu Ram was not subjected to cross- examination, but also a suggestion was thrown to the witness that after the patch up the accused shook hands with Suresh Kumar PW 1 and left. Statement of witness Relu Ram corroborates the testimony of PW 1 Suresh Kumar about the incident of the previous evening and the "patch up" between the two sides.

15. It is true that there are a few contradictions in the testimony of the eye witnesses, but none of them pertains to the material facts. Suresh Kumar, who was examined by the prosecution as PW 1 stated quite categorically that when on hearing his cries Gunny Mohammad and Rashid Mohammad came out of the business premises of M/s Jagan Nath and sons and Gunny Mohammad was

trying to rescue him by physically pulling apart Ashwani Kumar, who was helping him, Satish Kumar appellant took out a knife and stabbed him (Gunny Mohammad) twice in the chest. No doubt Suresh Kumar had not been having good relations with the appellant because of the incident of the previous evening, but his is not the only evidence. There is another witness, namely PW 3 Rashid Mohammad, who not only did not have any enmity or other motive to falsely implicate the appellants but was also not under the influence of Suresh Kumar. This witness has very categorically stated that deceased was stabbed twice by appellant Satish Kumar in the chest, as a result of which he fell on the spot and when he (this witness) tried to rescue Gunny Mohammad, Satish Kumar tried to hit him too with the knife but he escaped with a minor linear injury by timely ducking. His further testimony is that the second appellant Anil Kumar alias Neelu then picked up a Saria and dealt a blow in his abdomen, which resulted in a deep bleeding wound.

16. The third eye witness named Rajinder Kumar PW 5 has also given the same account as PW 1 Suresh Kumar and PW 3 Rashid Mohammad. Additional fact stated by the witness is that when he and some other persons tried to apprehend the appellants and their accomplice Ashwani Kumar, who after committing the crime were fleeing from the scene, Satish Kumar appellant aimed a blow of knife at him, which caused injury on his back. No doubt, this witness did not go to the hospital to get treatment for the injury and instead took treatment from his brother's wife, who is a nurse and even got the wound stitched from her and this is somewhat unnatural conduct,

but when seen in the light of the testimony of the other two witnesses, particularly PW 3 Rashid Mohammad, there should be no reason for doubting his version.

17. The testimony of these three witnesses is corroborated in material particulars by PW 4 Jagan Nath, the proprietor of the shop with whom deceased Gunny Mohammad and PW 1 Suresh Kumar were employed. The witness no doubt was cross-examined by the prosecution with the leave of the court, but before permission for his cross-examination was asked for, he stated in the examination-in-chief that Gunny Mohammad and Rashid Mohammad were at his shop at the relevant time and that when these two persons were stepping out of his shop, cries for help raised by Suresh Kumar PW 1 were heard, upon which Gunny Mohammad and Rashid Mohammad went out of his shop and soon he heard the cries of Gunny Mohammad. Though the witness stated that when he and Ajay Mahajan, who was also there, went out of their shop, they did not see Satish Kumar inflicting the injuries, yet in the cross-examination, he stated that he saw Satish Kumar aiming a blow of knife at Rashid Mohammad, which the latter escaped by ducking. No doubt, this witness has not fully supported the prosecution version and was, therefore, cross-examined by the prosecution with the leave of the court, but from the portion of the statement made by him in the examination-in-chief before the grant of leave for his cross-examination by the prosecution, one fact is clearly established that Rashid Mohammad PW 3 was very much present on the spot. It may not be out of place to mention that this part of the statement of PW 4

Jagan Nath was not challenged in the cross-examination conducted by the defence. The statement thus partially corroborates the ocular version of the incident given by PW 1 Suresh Kumar, PW 3 Rashid Mohammad and PW 5 Rajinder Kumar.

18. Medico legal evidence also corroborates the ocular version. Deceased Gunny Mohammad, when alive and PW 3 Rashid Mohammad were initially examined at Community Health Centre, Ghumarwin, at 9.00 P.M. The doctor noticed the following two injuries on the person of Gunny Mohammad:-

> 1. Sharp edged wound present in the right infra mammary region on the right side of chest. Margins everted and tapering of wound present. Fresh bleeding from the wound present. The bleeding was profuse. Dimension about 5 cm and also deep
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> 2. Sharp edged wound present in the left loin region on lateral aspect about 3.5 cm in dimension. Subcutaneous fat present at the site of injury. Margins everted and tapering also present. Bleeding from the wound present.
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> On examination there was profuse bleeding from the chest injury i.e. injury No.1 and bleeding from injury No.2 was also present but not so profuse. Pulse radial-absent, B.P. un-recordable. Extremities cold and clammy. Profuse sweating present, not responding to verbal commands.

He gave the opinion that both the injuries were dangerous to life and appeared to have been caused with some sharp edged weapon.

19. This very witness noticed the following injury on the person of PW 3 Rashid Mohammad:-

1. Rounded injury (crushed) present in the right iliac fossa region. Bleeding from the wound present. Dimension about 1½ cm. in diameter. Fat tissue also present in the injury. Swelling around the injury present. Tenderness present.

He opined that the injury was dangerous to life and could have been caused by means of iron bar Ex. P-12.

20. PW 7 Dr. N.K.Sankhyan, who conducted the post mortem of the dead body of Gunny Mohammad also noticed the aforesaid two wounds on the dead body and gave the opinion that the injuries could have been caused with the knife.

21. In view of the above stated position, we see no reason to doubt the ocular version of the occurrence, as given by PW 1 Suresh Kumar, PW 3 Rashid Mohammad, PW 4 Jagan Nath and PW 5 Rajinder Kumar.

22. It was submitted on behalf of the appellant Anil Kumar alias Neelu that whereas in the FIR, it was mentioned that the injury was caused to him by means of a Saria, which word is used in common parlance for a round shaped iron bar, the weapon produced in the court, i.e. Ex. P-12, is an iron strip, which cannot be termed as "Saria". It is true that normally word "Saria" is used for a round shaped iron bar and may be that Ex. P-12 is not the weapon, with which the injury was caused, but this fact makes no dent in the ocular evidence, as discussed hereinabove and which we see no reason to disbelieve.

23. The submission that there had been a fight between two groups and in the course of that fight, Gunny Mohammad and Rashid

Mohammad, received injuries, and so the conviction of Satish Kumar, under Section 302, IPC and conviction of Anil Kumar alias Neelu, under Sections 302 and 307 IPC, are not legally sustainable, cannot be accepted. First there is absolutely no evidence that there had been any fight free for all, as was canvassed by the counsel representing the appellants. The case of the appellants is of denial simpliciter. Secondly ocular version of the incident, as noticed hereinabove, shows that the appellants assaulted Suresh Kumar PW 1 and the deceased and PW 3 Rashid Mohammad rushed to his rescue on hearing his cries and they were attacked and inflicted injuries with a knife and an iron bar. Further no injuries were sustained by the appellants. This fact alone gives a lie to the plea of a fight. The injuries, which caused the death of Gunny Mohammad, were inflicted on vital parts of the body. The blows, which caused those injuries, particularly the one on the right side of the chest, was given with such a great force that the knife after passing through two ribs, cut a hole through the pleurae, liver, diaphragm, capsule of liver and then capsule of right kidney through and through besides causing collapse of the right lung. A person inflicting a blow with a knife on the chest about 4" (four inches) below the nipple with such a force that all the vital organs are ruptured, can legitimately be presumed to have the intention to cause the death of the victim or in any case the intention of causing a bodily injury which is sufficient in the ordinary course of nature to cause death.

24. Relying upon a judgement of the Hon'ble Supreme Court in **Nansay** vs. **State of M.P.** [IV (2000) CCR 262 (SC)], learned

counsel for appellant Satish Kumar urged that the site of the injury by itself cannot be a pointer to the intention of the accused. In the precedent relied upon, the deceased was inflicted fist blows on the chest, which resulted in fracture of ribs and the points of fractured ribs caused perforation of the lungs leading to the death of the victim. It was in these circumstances that the Hon'ble Supreme Court held that it was difficult to show that the accused intended the aforesaid injuries. In the present case, facts are totally different. Two blows with a knife were given and one of the blows was so severe that it ruptured almost all the vital organs.

25. Injury caused to Rashid Mohammad PW 3 was dangerous to life, as per opinion of PW 8 Dr. Surinder Singh. The injury was caused without any provocation. Looking to the nature of the injury, its site and the force which was used to cause it, we have no manner of doubt that appellant Anil Kumar alias Neelu has rightly been convicted, under Section 307 IPC.

26. As an upshot of the above discussion, both the appeals are dismissed.

(Surjit Singh),
Judge.

January 11, 2007. **(Dev Darshan Sud),**
(*Hem*) **Judge.**

1. <u>Criminal Appeal No. 131 of 2003</u>.

Satish Kumar …… Appellant.

Vs.

State of H.P. …… Respondent.

For the Appellant : M/s T.R.Chandel, V.K.Verma and Vinay Thakur, Advocates.

For the Respondent : Mr. Som Dutt Vasudeva, Additional Advocate General with Mr. D.S.Nainta, Deputy Advocate General.

2. <u>Criminal Appeal No. 246 of 2003</u>.

Anil Kumar ….. Appellant.

Vs,

State of H.P. ….. Respondent.

For the Appellant : M/s Anup Chitkara and Bhupender Ahuja, Advocates.

For the Respondent : Mr. Som Dutt Vasudeva, Additional Advocate General with Mr. D.S.Nainta, Deputy Advocate General.